

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
DELAWARE

STATE FARM MUTUAL AUTOMOBILE)	
INSURANCE COMPANY (as subrogee of)	
Bessie Jarrett))	
Plaintiff)	
vs.)	C.A. No.
UNITED STATES OF AMERICA (U.S.)	
POST OFFICE))	
& LESLIE RICH)	
Defendants.)	

COMPLAINT

Plaintiff State Farm Mutual Automobile Insurance Company ("State Farm") by and through its undersigned attorney, hereby alleges and states as follows:

Jurisdiction and Venue

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1346, as it is an action in which a U.S. Government agency is a defendant.
2. Venue properly lies in this Court under 28 U.S.C. § 1391(e), as defendants reside within the District of Delaware and/or the events giving rise to the action occurred within the District of Delaware.

The Parties

3. Plaintiff State Farm is an Illinois mutual insurance company collectively owned by its policyholders with its principal place of business in Bloomington, Illinois. State Farm is licensed and authorized to transact business in the State of Delaware.

4. On information and belief, defendant U.S. Postal Service ("U.S.") is a U.S. Government agency doing business in the State of Delaware and was the owner of the motor vehicle involved in this incident.

5. On information and belief, defendant Leslie Rich ("Rich"), is an adult individual, who at all times relevant to this Complaint, resided in the State of New Jersey and continues to reside in the State of New Jersey. Defendant Rich is subject to service of process in this jurisdiction pursuant to 10 *Del.C.* §§3104, 3112 in that Defendant Rich has consented to such service, or is deemed to have appointed the Secretary of State of the State of Delaware as their agent for acceptance of legal process in the State of Delaware.

Factual Allegations Common To All Counts

6. On or about May 14, 2007, State Farm had in effect a valid contract of automobile insurance with Bessie Jarret, providing benefits in accordance with Delaware law and insuring against the risk of loss to a motor vehicle owned by Ms. Jarret.

7. On the aforesaid date, the motor vehicle insured by State Farm, hereafter referred to as the "insured vehicle", was involved in a collision with a motor vehicle owned by defendant U.S. and operated by defendant Rich in his capacity as agent, servant, workman, or employee of defendant U.S., hereafter referred to as the "defendant vehicle". At the time of the accident, defendants U.S. and/or Rich, by themselves, or through their agents, were transacting business in the state of Delaware or were performing work in the State of Delaware or were contracting to supply services in the state of Delaware when their acts and/or omissions caused tortious injury in the state of Delaware.

8. On the aforesaid date, the insured vehicle was traveling northbound on Market Street at or near the intersection with 42nd Street in Wilmington, Delaware. The Defendant was traveling westbound on 42nd Street. The Defendant failed to yield to oncoming traffic while turning left to go southbound on Market Street and struck the insured vehicle causing damages.

9. Defendant Rich was negligent and careless and the sole cause of this incident in that defendant Rich:

- a. when intending to turn left, failed to yield the right-of-way to other vehicles which approaching from the opposite direction which are so close as to constitute an immediate hazard in violation of 21 Del. C. § 4132;
- b. failed to yield the right-of-way to all vehicles approaching on the roadway to be entered or crossed in violation of 21 Del. C. § 4133;
- c. did not operate their vehicle with a speed calculated to avoid collision with another vehicle in violation of 21 Del. C. § 4168(a);
- d. operated their vehicle recklessly with willful or wanton disregard for the safety of persons or property in violation of 21 Del. C. § 4175(a);
- e. operated their vehicle in a careless or imprudent manner, disregarding the hazards created other motorists and merging traffic, and did not operate their vehicle in a reasonably and prudently safe manner with respect to those conditions in violation of 21 Del. C. § 4176(a);

- f. failed to give full time and attention to the operation of their vehicle or maintain a proper lookout while operating their vehicle in violation of 21 Del. C. § 4176(b);
- g. was otherwise negligent and/or violated local laws and the laws of the State of Delaware, including, but not limited to: 21 Del. C. § 4132, 21 Del. C. § 4133, 21 Del. C. § 4168(a), 21 Del. C. § 4175(a), 21 Del. C. § 4176(a) and 21 Del. C. § 4176(b).

10. Pursuant to the aforesaid policy of insurance, State Farm became liable for damages that arose out of this incident.

11. Due to this incident, expenses were incurred for damages to the insured vehicle, towing, storage and car rental.

12. At the time of this accident, the defendant was a self insured entity providing protection against the risk of loss in connection with the operation of the motor vehicle that was owned and/or operated by the defendants.

13. Pursuant to the aforesaid policy of insurance, the Common Law and governing statutes, State Farm is subrogated for all money paid and seeks recovery of these sums totaling \$4,662.00.

COUNT I
Negligence
(State Farm vs. defendant Rich)

14. State Farm repeats and realleges paragraphs 1 through 13, as if set forth herein at length.

15. Defendant Rich is liable as the negligent driver.

WHEREFORE, State Farm demands judgment for \$4,662.00 plus costs of this suit, pre-judgment and post-judgment interest and such other and further relief as this Court may deem just and proper.

COUNT II
Negligence
(State Farm vs. defendant U.S.)

16. State Farm repeats and realleges paragraphs 1 through 15, as if set forth herein at length.

17. Defendant U.S. is liable under the doctrine of Respondeat Superior for the negligence of defendant Rich.

18. Defendant U.S. was negligent in entrusting this motor vehicle to someone who defendant U.S. knew or should have known was a dangerous, unlicensed, inexperienced or careless motor vehicle operator.

WHEREFORE, State Farm demands judgment for \$4,662.00 plus costs of this suit, pre-judgment and post-judgment interest and such other and further relief as this Court may deem just and proper.

SHIELDS & HOPPE LLP

By: /s/ Amanda L. H. Brinton
Amanda L. H. Brinton (#4523)
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*Attorney for Plaintiff State Farm Mutual
Automobile Insurance Company*

Dated: April 23, 2008

JS 44 (Rev. 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

State Farm Mutual Automobile Insurance Company (as subrogee of Bessie Jarrett)

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Amanda L. H. Brinton 302-994-4049
521 North West Street
Wilmington DE, 19801

DEFENDANTS

United States of America (U.S. Post Office) & Leslie Rich

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ PTF ☒ DEF ☐ 4 ☐ 4 Incorporated or Principal Place of Business In This State
- Citizen of Another State ☐ 2 ☒ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Personal Injury— Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	PROPERTY RIGHTS	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle Product Liability	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 690 Other	SOCIAL SECURITY	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 160 Stockholders' Suits		LABOR	<input type="checkbox"/> 861 HIA (1395(f))	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 892 Economic Stabilization Act
		<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 893 Environmental Matters
		<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 894 Energy Allocation Act
		<input type="checkbox"/> 790 Other Labor Litigation	FEDERAL TAX SUITS	<input type="checkbox"/> 895 Freedom of Information Act
		<input type="checkbox"/> 791 Emp. Ret. Inc. Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 810 Motions to Vacate Sentence		
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> Habeas Corpus:		
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 830 General		
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 855 Death Penalty		
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 840 Mandamus & Other		
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 850 Civil Rights		
		<input type="checkbox"/> 855 Prison Condition		

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Subrogation in relation to motor vehicle tort

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 ☐

DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

4/29/08

SIGNATURE OF ATTORNEY OF RECORD

Amanda L. H. Brinton

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____